THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.19087 OF 2006

DATED 15th SEPTEMBER, 2006

BETWEEN

S.Laxmaiah

… Petitioner

and

The Secretary, Revenue Department, State of A.P., Secretariat Building, Hyderabad, and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.19087 OF 2006

ORDER:

The petitioner herein claims to be grandson of one Anthaiah, who allegedly had one-third share in the property admeasuring Acs.3.05 guntas in survey No.339/AA and Acs.2.33 guntas in survey No.402/AA situated at Penjarla village, Kothur Mandal in Mahaboobnagar District. The property originally belonged to one Gopaiah, who had three sons, namely, Anthaiah, Laxmaiah and Venkaiah. It is the case of the petitioner that as Anthaiah died, being the grandson through daughter, petitioner alone is entitled to succeeded to the property of Anthaiah. Respondent No.4, who was nothing to do with the property, asserted ownership of the land and applied to the second respondent for issue of Pattadar Pass Books (PPBs) by making necessary entries. The petitioner, therefore, filed O.S.No.213 of 2006 on the file of the Court of the Junior Civil Judge, Shadnagar, for declaration of title and the same is pending. Be that as it is, when the second respondent issued notice, dated 26.07.2006, to the petitioner calling for objections on the application made by the respondents 4 and 5 seeking PPBs, the petitioner allegedly filed objections requesting second respondent to desist from conducting enquiry in view of the pendency of the suit, in vain. He, therefore, filed the writ petition seeking a direction to second respondent not to proceed with the enquiry pursuant to the notice, dated 28.07.2006, during the pendency of the suit.

After hearing the learned counsel for the petitioner and the learned Assistant Government Pleader for Revenue (General), this Court is of considered opinion that this writ petition is wholly misconceived. Wherever a person acquires a right in the agricultural land, such person has to file an application under 4(1) of the A.P.Rights in Land and Pattadar Pass Books Act, 1971 (the Act, for brevity) whereupon the recording authority i.e., the Mandal Revenue Officer shall conduct enquiry as required under Section 5(1) of the Act read with Rules 6 to 14-A of the A.P.Rights in Land and Pattadar Pass Books Rules, 1989 (the Rules, for brevity) and publish notification authenticating the altered/amended entries in the record of rights and PPBs. The power of the recording authority to do so, however, is subjected to Rule 9(1)(a)(iv)

of the Rules, which is to the effect that no orders shall be passed by recording authority for change of record of rights in contravention of the provisions of the A.P.Land Reforms (Ceiling on Agricultural Holdings) Act, 1973; the Urban Land (Ceiling and Regulation) Act, 1976; and the A.P.Assigned Land (Prohibition of Transfers) Act, 1977. Rule 9(1)(c)(ii) of the Rules also prohibits the recording authority to conduct enquiry when a suit for better title is pending before the civil Court. The said clause reads as under.

> **Rule 9(1)(c)(ii)**
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> In respect of cases falling under Rule 9(1)(a)(i), the Mandal Revenue Officer shall hold a summary enquiry as to who has the right to succeed to the property of the deceased registered holder, according to the principles of the Law of Succession which govern the case and give notice to all persons known or believed to be interested to the effect that the registry will be made in the name of the person found to be entitled, **unless a declaration if filed, within three months from the date of the notice, by any person objecting to the registry, stating that he has instituted a suit in a Civil Court to establish his superior title and an authenticated copy of the plaint in the suit is produced.** If no declaration is filed, the registry should be made as stated in the notice, at the expiration of three months. If a declaration is filed, the result of the suit should be awaited before taking further action.

It is plain from the above Rule that if the suit is pending for better title and person objecting summary enquiry for change of record of rights files a declaration before the recording authority to that effect, the Mandal Revenue Officer shall not proceed further. In this case, the petitioner has not filed any declaration enclosing a copy of the civil suit filed. The petitioner is therefore has to make such declaration before the second respondent enclosing a copy of the plaint in the suit filed by him. Unless the same is done, the petitioner cannot complain about show cause notice issued to the petitioner on 28.07.2006. The petitioner may approach the second respondent. In this writ petition, no relief can be granted to the petitioner.

The writ petition, with the above observations, is dismissed. No costs.

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(V.V.S.RAO,J)

15.09.2006.
pln